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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204912
Party	Plaintiff SourceCode Technology Holdings, Inc.
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Submission	Motion for Default Judgment
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Date	06/11/2012
Attachments	Motion_Default_Judgment_1765383.pdf (3 pages)(11212 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of
Trademark Application Serial No. 85447745
For the Mark K2K
Published in the Official Gazette on March 27, 2012

SOURCECODE TECHNOLOGY
HOLDINGS, INC.,

Opposer,

v.

KAHUA, INC.,

Applicant.

Opposition No. 91204912

MOTION FOR DEFAULT JUDGMENT

Pursuant to Fed. R. Civ. P. 55(b), Opposer SourceCode Technology Holdings, Inc. (“Opposer”), moves the Board for an Order of Default Judgment on its claims against Applicant Kahua, Inc. (“Applicant”). *See* 37 C.F.R. § 2.116(a) (noting that the federal rules of civil procedure apply to inter partes proceedings).

The Board may enter default and default judgment against a defendant that fails to answer a notice of opposition within the prescribed time period. 37 C.F.R. § 2.106(a); TBMP § 312.01. The plaintiff may also raise the issue of whether default judgment should be entered against a defendant in an opposition proceeding by way of a motion for default judgment. TBMP § 508 (“[T]he plaintiff, realizing that the defendant is in default, may file a motion for default judgment. . .”); *see also* TBMP § 312.01 (citing *DeLorme Publ’g Co. v. Eartha’s Inc.*, 60 U.S.P.Q.2d 1222 (TTAB 2000)). The filing of a motion for default judgment “may serve as a substitute for the Board’s issuance of a notice of default[.]” TBMP § 508.

In the present case, Opposer filed and served its Notice of Opposition on April 26, 2012. *See* Doc. No. 1. The same day, the Board issued a scheduling Order that set a deadline for Applicant to file its Answer to Opposer's Notice of Opposition within forty days of the date of the Order: June 5, 2012. *See* Doc. No. 2. More than forty days have passed since the date of the Board's Order, and Applicant has not appeared, answered the Notice of Opposition, or requested an extension of the deadline. Therefore, pursuant to Fed. R. Civ. P. 55(a) and TBMP § 312.01, Applicant is in default for failing to file an Answer to the Notice of Opposition. Accordingly, should Applicant fail to file a response to this motion, within 30 days, that demonstrates to the Board that there is good cause for why the Board should not enter Default Judgment, Opposer is entitled to entry of Default Judgment on its claims against Applicant. TBMP § 508; *see also* Fed. R. Civ. P. 55(b).

Dated this 11th day of June, 2012.

Respectfully submitted,

GRAHAM & DUNN PC

/Kathleen T. Petrich/
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CERTIFICATE OF SERVICE

I hereby CERTIFY that a true and correct copy of the foregoing Motion for Default Judgment is being mailed via U.S. first class mail to the Applicant, Kahua, Inc., at the address listed below, with a courtesy copy being mailed to the Applicant's counsel, Daniel E. Sineway, at the address listed below, on this 11th day of June, 2012.

Kahua, Inc.
810 Minsterworth Drive
Alpharetta, GA 30022

Daniel E. Sineway
Morris, Manning & Martin, LLP
3343 Peachtree Road, NE
1600 Atlanta Financial Center
Atlanta, GA 30326-1044

/Melanie L. French/

Melanie L. French

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the foregoing Motion for Default Judgment is being electronically filed using the ESTTA, Electronic System for Trademark Trials and Appeals, on this 11th day of June, 2012, in Opposition Proceeding No. 91204912.

/Melanie L. French/

Melanie L. French